

COLORADO STATE BOARD OF MEDICAL EXAMINERS

FULL BOARD OPEN MINUTES

August 21, 2008

9:50 a.m.

A full board meeting of the Colorado State Board of Medical Examiners was held Thursday, August 21, 2008, at the El Pomar Foundation Penrose House, 1661 Mesa Avenue, Colorado Springs, Colorado, at 9:50 a.m. The meeting was noticed in accordance with Division policy.

Present were Dr. Allen-Davis (departed at noon), Dr. Bair (departed at noon), Dr. Butler, Dr. Calonge, Dr. Faricy, Mr. Jennings, Dr. Jobin, Reverend Leivers, Dr. Matthews, Dr. Phelps, Ms. Radcliff, Mr. Schoenmakers and Dr. Watts.

The meeting was conducted by Dr. Faricy.

Also in attendance for all or part of the meeting were Board staff Cheryl Hara, Program Director, Susan Taylor, Enforcement Program Manager, Monica Brion, Enforcement Case Manager, Maria Soto, Program Assistant, and Sue Kim, Assistant Attorney General.

MINUTES

A motion was made, seconded, and carried to approve the open and confidential minutes of the May 22, 2008 full board meeting and the special full board meeting of June 19, 2008 as drafted.

Introduction of New Board Members

Dr. Faricy introduced the two new Board members, Lisa R. Butler, D.O., and Dennis A. Phelps, M.D.

REPORTS

President's Report

None.

Section Director's Report

None.

Program Director's Report

Ms. Hara introduced new Board staff member, Monica Brion, Enforcement Case Manager. Additionally, Ms. Hara gave an update on backlog.

Outreach Report

Ms. Hara gave a verbal update to the Board on physician profiling.

GENERAL BUSINESS

Governor's Collaborative Scopes of Care Advisory Committee

The Board discussed possible future legislation on expanded scope of Advanced Practice Nurse Practitioners, physician assistants, and dental hygienists.

No action was taken.

EMTS-MDC Recommendations for Rule 500 Waivers

Arthur Kanowitz, M.D., FACEP, EMTS, State Medical Director, Emergency Medical & Trauma Services (EMTS) Section; Marilyn K. Bourn, R.N., MSN, NREMTP, EMTS, State Training Coordinator, CDPHE; and Michelle Reese, J.D., Deputy EMTS Section Chief, CDPHE, were present at the meeting to discuss Medical Direction Committee (MDC) Rule 500 Waiver recommendations and requests.

The Board reviewed an undated memorandum from Dr. Arthur Kanowitz outlining the waiver requests and the MDC recommendations from its July 21, 20008 meeting.

After discussion, a motion was made, seconded and carried to adopt the EMTS-MDC recommendations, with amendments, for Rule 500 waiver requests for a maximum of a two-year period with specific conditions the medical directors must comply with, including reporting requirements and other conditions.

Formal Inquiry Regarding Rule 500 from Franklin E. Lynch Dated July 14, 2008

The Board reviewed emails dated July 9 and July 14, 2008, from Franklin E. Lynch, Esq., requesting guidance from the Board and possible exemption from limitations of Rule 500 in a specific situation. Dr. Hornbaker and another representative of the Broadmoor Fire Protection District appeared and presented information to the Board.

Discussion among the Board ensued.

The Board determined that, based on the information presented, Dr. Hornbaker meets the Board's requirement under Rule 500 to be actively involved in the provision of emergency medical services in the community served by the fire protection district being supervised.

CPEP Report

Beth Korinek, Executive Director for the Center for Personalized Education for Physicians (CPEP), presented information regarding CPEP.

No action was taken.

Rule 400 - Requests for Waivers of the Board Rule Regarding the Regulation of Physician Assistants

Francis J. Barry, M.D.

The Board reviewed a waiver application from Dr. Barry.

No action was needed.

Christopher Horton, M.D.

The Board reviewed a waiver application from Dr. Horton.

A motion was made, seconded and carried to deny Dr. Horton's application.

Doug Yeakel, M.D.

The Board reviewed correspondence and a waiver application from Dr. Yeakel.

After careful consideration of the available information, the Board found good cause existed under Board Rule 400, section 2(E). A motion was made, seconded, and carried to approve the waiver not to exceed two FTE physician assistants at any given time.

CPHP Report, Fourth Quarter, Report ending June 30, 2008

The Board reviewed the June 30, 2008 Fourth Quarter Report.

A motion was made, seconded and carried to accept the report.

CPHP Annual Report July 2007 – June 2008

The Board reviewed the July 2007 – June 2008 Annual Report.

A motion was made, seconded and carried to accept the report.

Formation of Subcommittee Regarding Rule 500 Waiver Requests from Eagle County Health Service District

The Board reviewed a staff memorandum and 6/25/2008 letter from Fred Morrison.

After discussion among the Board members, a motion was made, seconded and carried to form a subcommittee of at least two Board members to meet to clarify waivers granted for Eagle County Health Service District.

International Medical School Graduates

The Board reviewed a memorandum from Cheryl Hara, Program Director, dated August 6, 2008 regarding approval of foreign medical schools on a case-by-case basis.

Discussion among the Board members ensued.

A motion was made, seconded and carried to direct staff to review and research the list of questionable international medical schools and to present a revised questionnaire regarding the school.

Information Regarding New Medical Schools

The Board reviewed an e-mail from Aaron Courtright, M.S., dated August 8, 2008, regarding a new medical school, University of Medicine and Health Sciences – St. Kitts, and an e-mail from FSMB listing unaccredited schools of osteopathy doing business in Ontario, Canada.

After discussion and careful consideration of the available information, a motion was made, seconded and carried to add the following medical schools to the list of questionable schools: University of Medicine and Health Sciences – St. Kitts, the Canadian Academy of Osteopathy and Holistic Health Sciences (Hamilton), the Osteopathic Health and Wellness Institute (Hamilton), the Canadian College of Osteopathy (Toronto) and the Sutherland Academy of Osteopathy (Oakville).

Rulemaking Regarding Transparency Act, Rule 150

The Board reviewed a memorandum from Susan Miller, Healthcare Section Director, dated August 5, 2008, concerning rulemaking hearing regarding Rule 150, the Transparency Act.

After due consideration, a motion was made, seconded and carried to give notice of future rulemaking for the November 2008 meeting and to authorize staff to post a proposed amended Rule 150.

Request Concerning Blood Testing in the Practice of Medicine

Dr. Calonge discussed a request from HEPC Connection that the Board determine that informing a patient of blood test results and of the need to seek medical attention is not the practice of medicine.

A motion was made, seconded and carried to instruct staff to draft a letter for the Board President's signature and review at next Full Board meeting addressing this issue.

ATTORNEY GENERAL REPORTS

Case Status Reports

The Board reviewed privileged case status reports dated August 5, 2008, and a confidential memorandum, privileged attorney-client communication, from Sue Kim, AAG, dated August 4, 2008, and attachment, regarding a lawsuit by Paul Mitchell, M.D.

No action was taken.

Schryver Medical, Inc., Alleged Unlicensed Practice, Case #2008-001699-F

The Board reviewed a July 16, 2008 letter from Kevin Peters, Esq., counsel for Schryver Medical, Inc., and previously reviewed Office of Investigation report.

A motion was made, seconded and carried to direct staff to draft a response letter to Schryver Medical, Inc., and to draft a related policy for review at the November Full Board meeting.

REPORTS OF OFFICE OF INVESTIGATIONS

Robert Milisen, Unlicensed Practice, Case #2007-002459-F

The Board reviewed a memorandum and attachments from D'Ann Murphy, Investigator, dated May 30, 2008.

After careful consideration, a motion was made, seconded and carried to refer this matter to the Office of the Attorney General for permanent injunction.

ALLEGATIONS OF UNLICENSED PRACTICE OF MEDICINE AND/OR RULE 800 VIOLATIONS

Kimball Cicciu, Unlicensed Practice

The Board reviewed a referral memorandum from Acupuncture Licensure dated April 16, 2008, with copy of complaint and attachments.

A motion was made, seconded and carried to direct staff to send a letter to Respondent regarding her corrected advertising and to take no further action at this time.

Jefferson Lin, Unlicensed Practice

The Board reviewed a complaint against Dr. Lin dated July 11, 2008.

A motion was made, seconded and carried to refer this case to a licensing subcommittee because Dr. Lin has applied for a Colorado license.

Mélange Medical Spa & Salon, Bonnie Brae Cosmetic Dentistry

The Board reviewed a confidential memorandum from AAG Sue Kim dated July 31, 2008, and attachments. Sue Kim did not counsel the Board with regard to this matter.

A motion was made, seconded and carried to refer this case to the Office of Investigations.

Robert G. Milisen, Unlicensed Practice

The Board reviewed a complaint received June 30, 2008 and attachments.

A motion was made, seconded and carried to refer this matter to the Office of the Attorney General for permanent injunction.

David Pool, D.C. and Thomas Pool, D.C., Unlicensed Practice

The Board reviewed referral memorandums from the Board of Chiropractic Examiners dated June 19, 2008 and attachments.

A motion was made, seconded and carried to refer these chiropractors to the Attorney General's Office for permanent injunction. A motion was made, seconded and carried to refer Michael Tollett, D.O., to an Inquiry Panel of the Board.

Steven D. Reeb, M.D., Unlicensed Practice in Colorado, Case No. 2009-000594-F

The Board reviewed a complaint received March 4, 2008 from Tanya M. Reeb.

A motion was made, seconded and carried to dismiss the case as being without merit.

Dawn Maria Alicia Warren, Unlicensed Practice

The Board reviewed a letter dated April 30, 2008 from Dr. Mark Pinkerton.

No action was taken.

Ann-Marie Yeager, Unlicensed Practice

The Board reviewed a referral memorandum from Acupuncture Licensure dated June 5, 2008 and copy of complaint from Camille DeMarco.

A motion was made, seconded and carried to refer this case to the Office of Investigations.

ITEMS OF INTEREST

- Dr. Faricy discussed Board member responsibilities and AAG Sue Kim discussed open meetings requirements.
- The Board reviewed an FSMB publication: *Responsible Opioid Prescribing, A Physician's Guide* by Scott M. Fishman, M.D., and FSMB's offer to provide a copy of the publication to Colorado licensees. A motion was made, seconded and carried to decline the request at this time.
- The Board reviewed an FSMB update on the Puerto Rico Board of Medical Examiners being under scrutiny.
- The Board reviewed the FSMB publication *International Medical Education Newsletter*, Volume 2, No. 1, Winter 2008.
- The Board reviewed a *New York Times* article, "Methadone rises as painkiller with big risks."

ADJOURNMENT

There being no further business, the meeting was adjourned at 3:15 p.m.

FOR THE BOARD OF MEDICAL EXAMINERS

Approved by: Patrick O. Faricy, M.D.

Date: November 20, 2008